

ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Calderon Analyst: Jahna Alvarado Bill Number: ABX3 31
Related Bills: None Telephone: 845-5683 Introduced Date: September 5, 2008
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion/ Repeal Exclusion For Life Insurance Proceeds To Corporations

SUMMARY

This bill would repeal the provisions that allow life insurance payouts to be excluded from gross income when computing the income tax liability for corporations.

PURPOSE OF THE BILL

The bill language indicates that the purpose of this bill is to address the fiscal emergency proclaimed by the Governor on January 10, 2008.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and operative for taxable years beginning on or after January 1, 2008.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Under current federal and state tax law, amounts received under employer owned life insurance policies and contracts paid upon the insured's death are excluded from a corporate beneficiary's gross income. If such amounts are held by the insurer under an agreement to pay interest, then the interest payments must be included in the gross income. The 2006 Pension Act added a provision limiting the federal exclusion to the amount paid for the policy unless the employer met certain requirements. California has not conformed to the changes made by the 2006 Pension Act.

Current federal and state law provides that amounts received under life insurance, endowment, or annuity contracts, other than by reason of the insured's death, equal to the total amount of premiums are excluded from gross income.

Board Position:

_____ S	_____ NA	_____ NP
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_____ N	_____ OUA	_____ X PENDING

Department Director

Date

Brian Putler for
Selvi Stanislaus

02/17/09

THIS BILL

This bill would repeal language that allows a corporate taxpayer to exclude from gross income amounts received on an employer-owned life insurance, endowment, or annuity contract. By removing the exclusion, this bill would require all proceeds received from such contracts, whether received prior to or after the insured's death, to be included in the corporation's gross income.

The treatment of interest received under the terms of a life insurance, endowment, or annuity contract would remain unchanged. Interest received would continue to be included in gross income.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. These states use federal adjusted gross income as the starting point for calculating a corporation's state taxable income. Federal adjusted gross income excludes life insurance proceeds.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

Based on data and assumptions discussed below, this proposal would result in the following annual revenue gains beginning in fiscal year 2008-09.

Estimated Revenue Impact of ABX3 31 Effective for Tax Years BOA January 1, 2008 (\$ in Millions)		
2008-09	2009-10	2010-11
+\$115	+\$95	+\$100

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

The revenue impact of this bill is derived by prorating the data taken from the Estimate of the Federal Tax Expenditure Report prepared by the Joint Committee on Taxation¹ for this provision and adjusting it for California's fiscal year.

¹ <http://www.house.gov/jct/s-3-07.pdf>

POLICY CONSIDERATIONS

This bill would create additional differences between federal and California tax law, thereby increasing the complexity of California income tax return preparation.

LEGISLATIVE STAFF CONTACT

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